

JAN 08 2007

Art Unit 2627
Serial No.: 10/769,386Reply to Office Action of: 07/17/2006
Attorney Docket No.: A1358**REMARKS****STATUS OF THE CLAIMS:**

Claims 1, 3, 6-10, 12, and 15-16 are pending in the present Application. Applicant notes with appreciation the Examiner's indication that Claims 7 and 16 would be allowable if rewritten in independent form including all of the limitations of their respective base claims and any intervening claims. Claims 1, 3, 8-10, and 12 are rejected under 35 USC 103(a) as being unpatentable over U.S. Patent No. 5,668,679 issued to Swearingen *et al.* (*Swearingen*) in view of U.S. Patent Application Publication No. 2001/0010604 by Esumi (*Esumi*). Claims 6 and 15 are rejected under 35 USC 103(a) as being unpatentable over *Swearingen* in view of *Esumi* and further in view of U.S. Patent No. 6,603,622 issued to Christiansen *et al.* (*Christiansen*). Applicant respectfully traverses all of these rejections.

ALLOWABLE SUBJECT MATTER AND AMENDMENTS TO THE CLAIMS:

Applicant amends Claims 7 and 16 to include the limitations of their respective base claims and any intervening claims and to make minor corrections to the language of Claims 7, 15, and 16. Applicant respectfully submits that Claims 7 and 16 are now allowable and respectfully requests reconsideration and allowance of these claims.

REJECTIONS UNDER 35 USC 103(a):

Claims 1 and 10 each recite a "disk comprising a plurality of spiral tracks, wherein each spiral track comprises a high frequency signal interrupted at a predetermined interval by a sync mark" and "processing the read signal to detect a sync mark in a spiral track and generating an associated sync mark reliability metric, the sync mark reliability metric representing a probability that the sync mark was detected accurately." The Examiner notes that *Swearingen* does not disclose the latter quoted element of Claims 1 and 10, but the Examiner asserts that this element is shown by *Esumi* at page 3, paragraph [0056] through page 4, paragraph [0063], with additional reference to paragraph [0006]. *Esumi* discloses detection of a sync pattern or sync field

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for *data sectors* (see [0004]), which does not show the sync mark recited in Claims 1 and 10, wherein "each spiral track comprises a high frequency signal interrupted at a predetermined interval by a sync mark." Because the sync pattern of *Esumi* is not the sync mark of Claims 1 or 10, determining the probability of sync *pattern* detection, as disclosed in *Esumi*, does not show the element of "generating an associated sync mark reliability metric." Thus, the *Swearingen-Esumi* combination fails to teach, suggest, or disclose each and every element of either Claim 1 or Claim 10, nor do the other cited references remedy this deficiency. Consequently, Claims 1 and 10 and their respective dependent claims are allowable over the cited references. Applicant therefore requests reconsideration and allowance of Claims 1 and 10 and their respective dependent claims.

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In view of the foregoing amendments and/or remarks, Applicant respectfully submits that the pending claims are now in condition for allowance and requests reconsideration of the rejections. If it is believed that a telephone conversation would expedite the prosecution of the present application, or clarify matters with regard to its allowance, the Examiner is invited to contact the undersigned attorney at the number listed below.

Applicant respectfully requests that a Petition for three-month Extension of Time be granted under 37 CFR 1.136.

The Commissioner is hereby authorized to charge payment of any other required fees associated with this Communication or credit any overpayment to Deposit Account No. 23-1209.

Respectfully submitted,

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